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ABSTRACT

The recent history and an interpretation of legislation promoting sex equality in education--principally Title IX of the Education Amendments of 1972--are presented. Examples of men and women, as a group, treated differently are cited in the areas of administrative positions, vocational education programs, physical education, and high school sports programs. A series of steps administrators can take to promote sex equality in public schools is followed by the Title IX provisions specifying five tasks that are to be completed by educational agencies receiving federal funds. (MLF)

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SPEAKER: Terry N. Saario, Program Officer, The Ford Foundation, New York, New York

TOPIC: Instituting Change to Promote Sex Equality

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INSTITUTING CHANGE TO PROMOTE SEX EQUALITY:

Invited Address
American Association of School Administrators
February 21, 1976

I must say that I am impressed by the number of you who have come to hear me today. In thinking about what I would say to you, I realized, not without a little chagrin, that for this convention and this audience, my topic of "Sex Equality" would probably be second only to "Busing" in its lack of popularity and attendance. I don't mean to imply that there are not other equally serious and potentially disruptive issues confronting the school administrators of this country in the year 1976 -- reduced tax revenues and rising school costs being two very good examples. Rather, I do mean to imply that dealing with cold facts and figures is probably less personally painful than confronting an issue which strikes all of our lives in one way or another. "Sex Equality" is also probably an issue on which, depending upon your own disposition to the topic, some of you are seeking still more information, others probably know more than I do, and yet others wish they had never heard of it. So, at the risk of boring all of you, let me briefly run through the recent history and an interpretation of legislation promoting sex equality in education -- principally Title IX of the Education Amendments of 1972 -- and then I will turn to a series of steps we all can take to promote sex equality in our public schools.

On July 21, 1975, with the approval of Congress, Title IX became law. Three long years after its detractors and supporters had maneuvered for control of its definition, Title IX had become the law of the land, and as such, was the broadest prescription against sex discrimination in education to have emerged from Congress. Specifically, Title IX states: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of,

or be subjected to discrimination under any education program or activity receiving federal financial assistance..." Because of its broad mandate, Title IX frequently serves as a shorthand symbol for a battery of federal and state laws and regulations which prohibit discrimination on the basis of sex. In addition to Title IX, the most important among these are: The Equal Pay Act of 1963, the first piece of sex discrimination legislation enacted, which requires equal pay for equal work regardless of sex; Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, which forbids discrimination on the basis of race, color, national origin, religion, or sex in any term, condition, or privilege of employment by unions and employers; and Executive Order 11246, as amended by Executive Order 11375, which prohibits discrimination in employment by all employers who hold federal contracts and requires affirmative action programs by all federal contractors and subcontractors. In addition to these federal mandates, a variety of states have passed equal rights amendments and labor and fair employment practices statutes.

Title IX, the only legislative enactment specifically prohibiting discrimination in elementary and secondary schools, has had an unusual history in a number of ways. Not only did it take three years for HEW to issue its regulations, the regulation in draft form elicited roughly 10,000 public comments, and in an unprecedented and unique move, Congress instituted a 45 day period to review the Administration's final regulations before they became law.

What is Title IX? Why did it receive such a highly politicized and emotionally charged reaction? Title IX is a sweeping pronouncement, affecting all levels of educational practice. It prohibits discrimination on the basis of sex against most adults employed in educational settings and most students who spend a significant

portion of their lives in these settings. Men and women are to receive the same benefits and opportunities for job advancement; boys and girls are to receive the same instruction and treatment without regard to their gender. Only a few aspects of education fall outside its scope. Curriculum materials, for example, have been excluded from Title IX's coverage because of a legal judgment that their inclusion would violate the constitutional guarantee of freedom of speech of the First Amendment. The membership policies of the Girl and Boy Scouts, the YMCA and YWCA, and other single sex "youth service organizations" are also exempt from Title IX's coverage, albeit for different reasons. Title IX was designed broadly to right the wrongs of an educational system which, consciously or unsconsciously, with or without malice, had for decades patently discriminated against women and girls.

Yet, Title IX did not become law in a vacuum. It was enacted as the cost of education continued to rise, as taxpayers resisted increases in local taxes, as the debate over equity in financing of public schools matured into a serious examination of state and local tax policy, as enrollments began to drop from the highs of the 1960's, and as tensions heightened between citizen groups, unions, legislators, school boards, and local administrators over control of schools and school resources. It became law as more and more questions were raised about the utility of educational credentials, as well as the value of education to work, and the adequacy of the educational system for the multiplicity of groups it serves. Title IX became law as more foment and discord confronted concerned educators than they had known in years.

What does all this mean for the adults and students whose lives and aspirations are shaped and affected by either the employment or pedagogical practices of schools? A great deal. Allow me, if you will, to fantasize for a moment about another society, one in which children are primarily taught by male adults, and

decisions about who ought to learn what under which circumstances are made by women. Imagine also that in the same society, most decisions about resources and how they are to be used are made by women. Grooming for future careers takes pla principally between young women and older women. And on and on. Without belaboring the point any further, I rather suspect that you and I would find such a society confining and uncomfo table. Obviously, many individuals -- males and females alike -- find this society equally confining and uncomfortable.

That's what Title IX is all about. Simply put, the intent of the legislation is clear. Even in days of a steady state in education, principles of equality and equity are being championed. Women should be afforded all the opportunities for job access and promotion in educational settings that white men have received for generations. As most of you know, just the reverse seems to have occurred over the last several decades. Women hold fewer administrative positions today than thirty years ago. This gradual disappearance of female administrators can partially be traced to the reduction or consolidation of roughly half of the basic administrative school units over the last ten years. The present spectre of decreased enrollments -- especially in elementary units where women are best represented administratively -- should only further that process, and thus exaggerate the problem.

Without attributing malice or intent to anyone, it would be a fairly simple matter to document whether, as a group, men and women were treated differently during this period of constriction. A simple ratio of the number of women who have earned administrative credentials compared to the number of women who actually hold such positions could be compared to a similar ratio for men. Such comparisons would demonstrate whether men and women, as a whole, have been eased up the administrative ladder with the same frequency or in the same proportions.

Such comparisons do beg what some would argue is a more important question. Quantity presumably is not equivalent to quality, and qualitative differentials are much more difficult to assess. Few, if any, good measures of administrative ability are available in the world of educational measurement. Is the principal or superintendent who has been able to retain his or her position longer than five years -- a figure that is a real record these days -- is such a person a successful administrator or is longeveity in office equivalent to an unwillingness to take risks, and thus mediocre leadership? I'm sure that each of us would have our own answer to that question based upon our own experiences, but I'm not sure how much consensus we would have around it.

Fortunately, Title IX's provisions, though perhaps occasionally ambiguous and difficult to operationalize, do not require such a subjective answer. Instead, these provisions cover recruitment, advertising, hiring, upgrading of positions, promotion, contracting and awarding of tenure, demotion, transfer, layoffs, rehiring, pay rates, job assignments and seniority, the terms of collective bargaining agreements, pregnancy leaves or leaves for either males or females who must care for children, fringe benefits, selection and financial support for training, employer-sponsored activities, and any other term, condition, or privilege of employment.

Most of us apply these terms only to the credentialed staff in schools. Title IX applies to non-credentialed, non-certified personnel as well. Strict adherence to the use of credentials, frequently established by state statute, assures a gulf between teachers and administrators, and teachers' assistants, cafeteria workers, librarians, and custodians. With upward mobility into professional positions blocked by credentialing requirements, equal pay for equal work is an even more important consideration to this sector of the educational labor market. In effect, there are at least two distinct types of employees affected by anti-discrimination legislation --

the professional or credentialed and the blue collar or clerical.

Sex discrimination affecting students also takes many forms, some more manifest than others. Large numbers of textbooks and instructional materials presently in use in schools are clearly sex stereotyped and biased. Vocational education programs are frequently sex segregated. Few secondary schools provide girls with equal access to opportunities for physical education and competitive sports programs. Instructional and counseling services provided for students generally support and reinforce stereotyped attitudes and behaviors about appropriate roles for males and females in our society. Title IX's broad prescriptions now make many of these practices, not only morally and ethically wrong, but illegal.

Title IX states: "No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extra curricular, research, occupational training or any other education program or activity operated by a recipient of federal funds." While on its surface, this regulation would appear to be quite easy to implement, its long term impact should substantially alter most educational programs as we know them today. For example, let's assume a school district of moderate size and enrollment. How do you suppose its school board and administrative staff would answer the following questions?

(1) In your secondary schools, are there courses or extracurricular activities which are restricted to students of only one gender?

(2) Are athletic programs for male and female students comparable?

(3) Are students selected on a differential basis for participation on school related activities?

(4) Do students have equal access to job placement services?

(5) Are different aptitude and vocational interest tests given to male and female students?

(6) Are the same counseling procedures used with male and female students?

If our hypothetical school board or administrative staff answered most of these questions candidly, they would reveal striking discriminatory practices in many instances. The tragedy is that such answers are not peculiar to a few school districts, but rather accurately describe the situation in most of the 16,000 public school districts in the country today.

I do not mean to imply that these questions are free from ambiguity. If a school does not prohibit girls from enrolling in an auto mechanics class, and yet none do, has the school pursued discriminatory practices? If boys and girls enroll in equal numbers in a vocational education class, and yet only a majority of boys seek employment in that area, has the school discriminated against its female students? If a school board, facing a budget crisis, elects to discontinue a music program in which male and female enrollments are roughly equal instead of an inter-scholastic sports program in which males are greatest in evidence, has it discriminated against its female students? Few of these questions can be answered with ease or precedent.

However, pursuit of an all encompassing and acceptable definition of discrimination as it appears in elementary and secondary schools may simply be diversionary and enervating. In some areas -- athletics and vocational education being two of the most blatant -- statistics tell all that needs to be told with great drama. For example, during fiscal year 1972, more than $1.7 billion in federal, state, and local funds were expended on high school vocational education programs. More than seven million students, of whom 66 per cent were female, were enrolled in these programs. Roughly 75 per cent of these women were clustered in either

consumer and homemaking or office skills vocational courses, while 58 per cent of the males obtained training in technical, industrial, or agricultural skills.

The vocational courses in which females are the majority have higher student/teacher ratios than do the technical programs in which males are the majority. Expenditures on vocational programs follow the same pattern. Over 60 per cent of the total expenditures for vocational education at the high school level are earmarked for technical and industrial courses. In other words, 60 per cent of the resources available for high school vocational programs are distributed to courses in which 34 per cent of the students are enrolled.

Simple descriptive statistics establish prima facia evidence of discrimination in vocational education courses. Admittedly, this skirts the question of the real utility of such courses, that is, the question of whether, in any qualitative sense, vocational education leads to gainful employment over a lifetime of work. Descriptive statistics tell the same story in most high school sports programs. The proportion of a school's budget allocated to male interscholastic and intramural athletic programs always outstrips that allocated to a women's sports program. The discrimination is glaring; the utility of the activity in terms of a lifetime of access and fulfillment is less clear.

These thornier questions ought to be addressed at some point by both the supporters and detractors of anti-discriminatory legislation. Just as we do not know what constitutes a good administrator other than on an intuitive basis; we know embarrassingly little about how sexual identities are formed and even less about the saliency or significance of gender identity in the formation and maturation of a healthy individual. Even the most authorative source on the development of sex differences available today, The Psychology of Sex Differences, acknowledges looming voids in our knowledge of what makes boys and girls, men and women different.

Notwithstanding the definitional ambiguity surrounding Title IX, the need for acceptable standards or goals which can withstand politics and law, over-simplified notions about the etiology of sex differences, an inadequate research base, and serious unknowns about the consequences of action, Title IX is law; and it is incumbent upon our educational systems to move with dispatch into full compliance with the law.

Title IX is unusual as federal requirements go since its provisions outline general requirements, that is, positive steps we can all take, for achieving compliance with the law. In fact, part of the regulations specify five tasks which are to be completed by educational agencies receiving federal funds by July 21, 1976, a year from the effective date of the regulation, and five months from today. These include:

(1) Notification of a policy of nondiscrimination on the basis of sex to all applicants for admission and employment, students and parents of elementary and secondary school students, employees, sources of referral of applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the school district.

(2) Designation of an employee to be responsible for the coordination and monitoring of compliance activities by the educational agency receiving federal funds. In this instance, school districts might find it easier to split this function into two -- one dealing with activities relating to ensuring nondiscrimination in the admissions and treatment of students, and the other responsible for monitoring activities in employment policies and practices.

(3) Thirdly, the regulation requires the development and implementation of grievance procedures for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by Title IX. While the

organization and structure of such procedures are not specified within the regulation and are left to the discretion of the school district, the intent of this requirement is to assure due process for all parties. Grievance procedures not only provide a mechanism for the resolution of specific allegations, they also provide a way for identifying sources of discrimination in a system that might otherwise go unnoticed by responsible administrators.

(4) Fourth, the regulation requires that every education institution or agency receiving federal funds must complete a self-evaluation of its compliance with Title IX by July 21, 1976. The self-evaluations are to be composed of three major components:

(a) an evaluation and appraisal of current policies and practices for the admission and treatment of students, and the employment of academic and non-academic personnel.

(b) the modification of any policies or practices which are found to be discriminatory and not in compliance with the regulation, and

(c) the development of remedial steps to eliminate the effects of any discrimination which resulted or may have resulted from adherence to these policies and practices.

(5) The fifth and last requirement of Title IX is the submission of assurances of compliance with every application for federal financial assistance.

These requirements may sound a little overwhelming at first, but in reality are fairly easy to implement and at relatively little cost to the school district in question. For those of you interested in a series of helpful handbooks detailing these requirements for school districts and state departments of education, I suggest that you contact either the Resource Center on Sex Roles at the National Foundation for the Improvement of Education, an NEA affiliate, or the Education Commission of

the States Project on Equal Education Rights for Women in Education. Both projects have available a series of handbooks and pamphlets designed to offer assistance to key decision makers in education as they work to be in compliance with Title IX.

In truth, even the most valiant efforts to implement Title IX and other non-discriminatory legislation will only scratch the surface of the problem. We don't have a precise estimate of what the cumulative effects of discrimination have been upon young boys and girls, men and women. We can only suggest the steps which will have to be taken to counteract the effects of being subject to years of such discrimination. What costs are we as a society willing to incur in order to achieve a goal of full participation of all our citizens? Most Americans, perceive sex discrimination as less onerous or less invidious than other forms of discrimination based on race, color, or national origin. Thus, there is not likely to be an instantaneous remission of sins.

The next decade in education is going to be one of reduced enrollments, greater competition for jobs, indirect challenges to the tenure system, and a challenge to compulsory education by non-credentialed and non-accredited experiential learning systems. Besieged and beleaguered school boards and administrators will undoubtedly find it difficult to weigh trade-offs, to be responsive to various political factions, and to establish priorities for their actions. That's why Title IX and other legislation prohibiting sex discrimination in education are so timely and useful.

Ultimately, of course, real equality between men and women and boys and girls will be achieved when the public, concerned mothers and fathers, understand the ways in which schools are placing a dampener on their own children's lives. Or, as the Commissioner of Education in the state of New York recently noted,

"Equality is not when a female Einstein gets promoted to Assistant Professor;

Equality is when a female schlemiel moves ahead as fast as a male schlemiel."

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